

REMARKS

This is in full and timely response to the above-identified Office Action. The above listing of the claims supersedes any previous listing. Favorable reexamination and reconsideration are respectfully requested in view of the preceding amendments and the following remarks.

Claim Amendments

Claim 53 is cancelled and replaced with new independent claims 68;

Claims 54, 57 are cancelled;

Claims 55-56, 58-67 are amended in accordance with the Examiner's comments.

Claim Status

With the cancellation of Claim 53, the rejections under 112 1st and 2nd paragraphs, including the art based rejections are considered moot.

Claims 58, 59 and 65 have been amended in accordance with the Examiner's comments on page 5 of the Action.

In connection with the Examiner's comments in paragraph 6 of this Office Action, the newly presented claim 68 is amended so that a nexus between the preamble and the body of the claim is established thus mooting the position that the preamble limitation, which clarifies the scope of the invention, is not given any particular patentable weight.


Double Patenting

The Examiner has provisionally rejected claims 53-67 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over the combined teachings found in co-pending application No. 10/762,508. This rejection is provisionally traversed in that until one of the two applications issues and the scope of the claims of that application are determined, an effective comparison between the scopes of the two sets of claims is not possible. Thus, until one of the two applications issues, it cannot be properly determined if there is in fact a double patenting issue or if a terminal disclaimer is in fact necessary or not.

Conclusion

It is respectfully submitted that the claims as they are newly presented in this response are allowable over the art which has been applied in this Office Action. Favorable consideration and allowance of these claims, are courteously solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.



Respectfully submitted,
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